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9      Attorney for Plaintiffs

10     **IN THE UNITED STATES DISTRICT COURT**  
11     **FOR THE DISTRICT OF ARIZONA**

12     Jose L. Almazan-Leon; Efren Alvarado-  
13     Rodriguez; Antonio Arce-Mendez; Felix  
14     Audeves-Quintero; Antonio T. Beltran-  
15     Tabullo; Manuel E. Canez-Santana;  
16     Jesus A. Castillo; Pedro Cruz-Ortiz;  
17     Martin Flores; Julian Gamez-Rojo; Antonio  
18     Gutierrez-Sepulveda; Jose Hernandez-  
19     Ramirez; David C. Huerta-Decileren; Leonel  
20     Insunsa-Gastelum; Jesus J. Jimenez-Nieves;  
21     Jose I. Ledezma; Jose Ledezma-Jaime; Rito  
22     Luque-Luque; Oscar F. Madero-Damian;  
23     Ramon Mateo-Jimenez; Salvador Nava-Nava;  
24     Paulino Ojeda-Aragon; Luis Paramo-Perez;  
25     Marco A. Parra-Luna; Jose H. Patron-Roman;  
26     Noe Perez-Camberos; Jose D. Quintero-Medina;  
27     Felipe Reynosa-Casillas; Joel Silva; Aurelio  
28     Solis-Carmona; Jose J. Tabares; Pablo  
       Velasquez-Dominguez; Mariano Valdez-Fierro;  
       Gerardo Valdez-Hernandez; Jesus Valdez-  
       Zuniga; George Villa; Jorge I. Villa;  
       Luis Villapudua-Campos,

21     Plaintiffs,

22     vs.

23     Farm Labor Contractor, LLC, an Arizona  
24     Limited Liability Company; Russell Lathem,

25     Defendants.

Case No.: \_\_\_\_\_

**COMPLAINT FOR DAMAGES  
DECLARATORY RELIEF  
AND INJUNCTIVE RELIEF**

## **COMPLAINT**

## **PRELIMINARY STATEMENT**

1. This is an action by 38 migrant farmworkers to redress and vindicate rights afforded them by the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. §§1801, *et seq.* (“AWPA”).

2. The Plaintiffs were employed, on a seasonal basis, weeding or thinning corn and sorghum; harvesting and packing pumpkins and squash; and harvesting, loading and packing watermelon and other crops in 2014 at various locations throughout Texas.

3. The Plaintiffs were recruited from Arizona by farm labor contractors, Ramon Loya Pedro Padilla, Jorge Tovar, Eduardo Renteria, and Russell Lathem, to work for Defendants Farm Labor Contractor, LLC (hereafter “FLC”) and Russell Lathem, in their 2014 agricultural harvesting and cultivating operations.

4. Throughout the period relevant to this action, the Defendants violated the AWPA's provisions relating to disclosure, wage statements, working arrangements, payment of wages, posting of housing rules, and providing false and misleading information to workers.

5. The Plaintiffs seek money damages, declaratory relief, and injunctive relief to redress these violations of law.

## JURISDICTION

6. Jurisdiction is conferred upon this court by 29 U.S.C. § 1854(a), for an action arising under the AWPA.

7. This Court is empowered to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

## VENUE

8.       Venue is proper in this district pursuant to 28 U.S.C. § 1331(b) and (d) because the Defendants reside in this district and many of the events or omissions giving rise to the claim occurred in this district.

## PARTIES

9. At all times relevant to this action, each of the Plaintiffs, Jose L. Almazan-Leon,

1 Efren Alvarado-Rodriguez, Antonio Arce-Mendez, Felix Audeves-Quintero, Antonio T.  
 2 Beltran-Tabullo, Manuel E. Canez-Santana, Jesus A. Castillo, Pedro Cruz-Ortiz, Martin Flores,  
 3 Julian Gamez-Rojo, Antonio Gutierrez-Sepulveda, Jose Hernandez-Ramirez, David C.  
 4 Huerta-Decileren, Leonel Insunsa-Gastelum, Jesus J. Jimenez-Nieves, Jose I. Ledezma, Jose  
 5 Ledezma-Jaime, Rito Luque-Luque, Oscar F. Madero-Damian, Ramon Mateo-Jimenez,  
 6 Salvador Nava-Nava, Paulino Ojeda-Aragon, Luis Paramo-Perez, Marco A. Parra-Luna, Jose  
 7 H. Patron-Roman, Noe Perez-Camberos, Jose D. Quintero-Medina, Felipe Reynosa-Casillas,  
 8 Joel Silva, Aurelio Solis-Carmona, Jose J. Tabares, Pablo Velasquez-Dominguez, Mariano  
 9 Valdez-Fierro, Gerardo Valdez-Hernandez, Jesus Valdez-Zuniga, George Villa, Jorge I. Villa,  
 10 and Luis Villapudua-Campos was a migrant agricultural worker within the meaning of the  
 11 AWPA, 29 U.S.C. § 1802(8)(A) in that each Plaintiff was employed in agricultural  
 12 employment of a seasonal or other temporary basis and was required to be absent overnight  
 13 from his or her permanent place of residence in or around Yuma County, Arizona. The  
 14 Plaintiffs are fluent only in the Spanish language.

15 10. Defendant FLC is an Arizona Limited Liability Company headquartered in  
 16 Scottsdale, Maricopa County, Arizona. Defendant FLC is a farm labor contractor within the  
 17 meaning of the AWPA, 29 U.S.C. § 1802(7), in that for a fee, it recruited, solicited, hired,  
 18 employed, furnished, or transported the Plaintiffs and other migrant and seasonal agricultural  
 19 workers.

20 11. Defendant Russell Lathem is a resident of Scottsdale, Maricopa County,  
 21 Arizona. At all times relevant to this action, Defendant Russell Lathem was a farm labor  
 22 contractor within the meaning of the AWPA, 29 U.S.C. § 1802(7), in that for a fee, he  
 23 recruited, solicited, hired, furnished, transported, or employed the Plaintiffs and other migrant  
 24 and seasonal agricultural workers.

25 **COUNT I**

26 **(Migrant and Seasonal Agricultural Workers Protection Act)**

27 **(Season 1: Corn and Sorghum Season)**

28 12. This count sets forth a claim by the Plaintiffs for damages, declaratory relief and

1 injunctive relief with respect to violations of the AWPA and its attendant regulations by FLC  
2 and Russell Lathem (hereafter “Defendants”) during the 2014 corn and sorghum season in  
3 Texas. The corn and sorghum season in Texas typically begins in early May and runs until the  
4 beginning of September.

5 13. Defendants are farm labor contractors who organize several farmworker crews  
6 every year to cultivate corn and sorghum fields in various locations in Texas, including but not  
7 limited to, Dalhart and Amarillo.

8 14. In the spring of 2014, the Defendants contracted with farm labor contractors  
9 Ramon Loya, Pedro Padilla, Jorge Tovar, and Eduardo Renteria to recruit workers for the  
10 Defendants’ farm labor contracting business. Roman Loya, Pedro Padilla, Jorge Tovar, and  
11 Eduardo Renteria functioned as the Defendants’ agents for the purposes of recruiting, hiring,  
12 and employing migrant agricultural workers for the 2014 corn and sorghum season.

13 15. In or about May, June, and July 2014, in San Luis, Arizona, the Defendants,  
14 through their agents described in Paragraph 14, recruited Plaintiffs Jose L. Almazan-Leon,  
15 Efren Alvarado-Rodriguez, Antonio Arce-Mendez, Felix Audeves-Quintero, Antonio T.  
16 Beltran-Tabullo, Manuel E. Canez-Santana, Pedro Cruz-Ortiz, Antonio Gutierrez-Sepulveda,  
17 Jose Hernandez-Ramirez, David C. Huerta-Decileren, Jesus J. Jimenez-Nieves, Jose  
18 Ledezma-Jaime, Jose I. Ledezma, Rito Luque-Luque, Ramon Mateo-Jimenez, Salvador  
19 Nava-Nava, Paulino Ojeda-Aragon, Marco A. Parra-Luna, Jose H. Patron-Roman, Jose D.  
20 Quintero-Medina, Joel Silva, Jose J. Tabares, Pablo Velasquez-Dominguez, Mariano  
21 Valdez-Fierro, Gerardo Valdez-Hernandez, Jesus Valdez-Zuniga, and Luis  
22 Villapudua-Campos to cultivate corn and sorghum fields at various locations in Texas.

23 16. At the time the Defendants recruited the Plaintiffs for work in the 2014 corn and  
24 sorghum season as described in Paragraphs 14 and 15, the Defendants and their agents failed  
25 to provide the Plaintiffs with a written statement in Spanish of the terms and conditions of  
26 employment, as required by the AWPA, 29 U.S.C. §§1821(a) and (g), and its attendant  
27 regulations, 29 C.F.R. §§ 500.75(b) and 500.78.

28 17. At the time the Defendants or their agents recruited and hired all Plaintiff listed

1 in Paragraph 15, the Defendants' agents orally promised that meals would be provided free  
2 of charge while they were employed with the Defendants during the 2014 corn and sorghum  
3 season.

4 18. The Plaintiffs described in Paragraphs 17 accepted the job offer of Defendants  
5 in reliance on these promises regarding free meals.

6 19. The promise made by the Defendants as described in Paragraph 17 constituted  
7 a working arrangement within the meaning of the AWPA, 29 U.S.C. § 1822(c), between the  
8 Defendants and those Plaintiffs.

9 20. Along with other migrant workers, the Plaintiffs were transported by Defendant  
10 FLC from Arizona to locations in Texas where the Plaintiffs cultivated and cleared corn and  
11 sorghum fields.

12 21. Throughout the period of their employment during the 2014 corn and sorghum  
13 season in Texas, the Plaintiffs were housed in the Western Skies Motel located in Dalhart,  
14 Texas. The Defendants provided, secured, and obtained this housing for the Plaintiffs. The  
15 Defendants failed to post in a conspicuous place or to present the Plaintiffs with a written  
16 statement in Spanish of the terms and conditions of occupancy at the Western Skies Motel, as  
17 required by the AWPA, 29 U.S.C. §§ 1821(c) and (g), and its implementing regulations, 29  
18 C.F.R. §§ 500.75(f) and 500.78.

19 22. Throughout the period that the Plaintiffs listed in Paragraph 15 were employed  
20 by the Defendants during the 2014 corn and sorghum season, the Defendants failed to provide  
21 field toilets, hand washing facilities, and potable fresh drinking water as required by the  
22 federal and state law, thereby violating the AWPA, 29 U.S.C. § 1822(c), and its implementing  
23 regulations, 29 C.F.R. § 500.72.

24 23. The Defendants failed to make, keep, and preserve records as required by the  
25 AWPA, 29 U.S.C. § 1821(d)(1), and its attendant regulations, 29 C.F.R. § 500.80(a), regarding  
26 the work of the Plaintiffs listed in Paragraph 15 during the 2014 corn and sorghum season. The  
27 Defendants also failed to make, keep and preserve, records of the compensable hours worked  
28 by each of the Plaintiffs, including; among other things, time these Plaintiffs spent at the

1 employer sponsored orientation and time spent traveling between fields.

2 24. In violation of the AWPA, 29 U.S.C. §1821(d)(2), and its attendant regulations,  
3 29 C.F.R. §500.80 (d), during the 2014 corn and sorghum season, the Defendants failed to  
4 provide the Plaintiffs listed in Paragraph 15 each payday with a written statement containing  
5 the required information, including the Defendants' Internal Revenue Service employer  
6 identification number.

7 25. Despite the promise the Defendants and their agents made at the time of  
8 recruitment as described in Paragraph 17, the Defendants failed, without justification, to  
9 provide the Plaintiffs listed in Paragraph 15, with free meals.

10 26. By their actions described in Paragraph 25, the Defendants violated, without  
11 justification, their working arrangement with the Plaintiffs listed in Paragraph 15, in violation  
12 of the AWPA, 29 U.S.C. § 1822(c), and its implementing regulations 29 C.F.R. § 500.72.

13 27. The Defendants failed to compensate Plaintiffs Antonio Arce-Mendez, Pedro  
14 Cruz-Ortiz, Jesus J. Jimenez-Nieves, Jose Ledezma-Jaime, Rito Luque-Luque, Ramon  
15 Mateo-Jimenez, and Paulino Ojeda-Aragon, for time they spent attending an employer  
16 sponsored orientation at the beginning of the 2014 corn and sorghum season.

17 28. During the 2014 corn and sorghum season, the Plaintiffs listed in Paragraph 15  
18 frequently changed fields in the middle of the day. The Defendants failed to compensate these  
19 Plaintiffs for time when they were switching work locations.

20 29. By their actions as described in Paragraphs 27 and 28, the Defendants failed to  
21 pay the Plaintiffs listed in Paragraph 15 their wages when due in violation of the AWPA, 29  
22 U.S.C. § 1822(a), and its attendant regulations, 29 C.F.R. § 500.81.

23 30. Plaintiff Jose Hernandez Ramirez was asked by Defendants' agent Jorge Tovar  
24 if he was participating in a lawsuit against Defendants. Plaintiff Jose Hernandez Ramirez  
25 answered that he was participating in a lawsuit against Defendants. As a result, Defendants'  
26 agent Jorge Tovar informed Plaintiff Jose Hernandez Ramirez that he was not eligible to work  
27 for Defendants during the upcoming 2015 harvest season.

28 31. By the actions described in Paragraph 30, Defendants retaliated against Plaintiff

1 Jose Hernandez Ramirez for exercising his rights under the AWPA in violation of 29 U.S.C.  
 2 §1855(a) and its attendant regulations, 29 C.F.R. §500.9.

3 32. The violations of the AWPA and its attendant regulations as set forth in this  
 4 count were the natural consequences of the conscious and deliberate actions of the Defendants  
 5 and were intentional within the meaning of the AWPA, 29 U.S.C. § 1854(c)(1).

6 33. As a result of the Defendants' violations of the AWPA and its attendant  
 7 regulations as set forth in this count, the Plaintiffs listed in Paragraph 15 have suffered  
 8 damages.

9 34. The Plaintiffs listed in Paragraph 15 request damages, declaratory relief, and  
 10 injunctive relief with respect to violations of the AWPA and its attendant regulations by  
 11 Defendants for Season 1: corn and sorghum season as described in this Count.

12 **COUNT II**

13 **(Migrant and Agricultural Worker Protection Act)**

14 **(Season 2: Pumpkin and Squash Season)**

15 35. This count sets forth a claim by the Plaintiffs for damages, declaratory relief, and  
 16 injunctive relief with respect to the Defendants' violations of the AWPA and its attendant  
 17 regulations during the 2014 pumpkin and squash season in Texas.

18 36. Upon completion of the corn and sorghum season, Defendant FLC transported  
 19 Plaintiffs and other migrant workers to San Luis, Arizona for a rest period of approximately  
 20 one week.

21 37. In or about August 2014, the Defendants and their agents recruited more  
 22 agricultural workers for the 2014 pumpkin and squash season in Texas, including Plaintiffs  
 23 Jose L. Almazan-Leon, Efren Alvarado-Rodriguez, Antonio Arce-Mendez, Felix  
 24 Audeves-Quintero, Antonio T. Beltran-Tabullo, Manuel E. Canez-Santana, Jesus J.  
 25 Jimenez-Nieves, Rito Luque-Luque, Paulino Ojeda-Aragon, Jose D. Quintero-Medina, Aurelio  
 26 Solis-Carmona, Jorge I. Villa, Leonel Insunsa-Gastelum, Oscar F. Madero-Damian, George  
 27 Villa, Luis Paramo-Perez, and Felipe Reynosa-Casillas.

28 38. Of the Plaintiffs listed in Paragraph 37 who were recruited for the 2014

1 pumpkin and squash season, only Plaintiffs Aurelio Solis-Carmona, Jorge I. Villa, Leonel  
2 Insunsa-Gastelum, Oscar F. Madero-Damian, George Villa, Luis Paramo-Perez, and Felipe  
3 Reynosa-Casillas had not previously worked with the Defendants during the 2014 corn and  
4 sorghum season at issue in Count I.

5 39. At the time they recruited the Plaintiffs listed in Paragraph 37 for work in the  
6 2014 pumpkin and squash season as described in Paragraph 37, the Defendants and their  
7 agents failed to provide these Plaintiffs with a written statement in Spanish of the terms and  
8 conditions of employment, as required by the AWPA, 29 U.S.C. §§ 1821(a) and (g), and its  
9 attendant regulations, 29 C.F.R. §§ 500.75(b) and 500.78.

10 40. At the time the Defendants or their agents recruited and hired the Plaintiffs listed  
11 in Paragraph 37, the Defendants or their agents orally promised these Plaintiffs a wage of \$10  
12 or \$12 per hour for work in the 2014 pumpkin and squash season.

13 41. The wage rate varied based on the type of work the Plaintiffs were recruited to  
14 perform. For example, those Plaintiffs who were promised work in harvesting pumpkins were  
15 promised at least an hourly rate of \$10 per hour and those Plaintiffs recruited for packing  
16 pumpkins were promised at least an hourly rate of \$12 per hour. Many Plaintiffs worked in  
17 both harvesting and packing.

18 42. The Plaintiffs described in Paragraphs 40 through 41 accepted the job offer with  
19 the Defendants in reliance on these promises regarding wage rates.

20 43. The promises made by the Defendants as described in Paragraph 40 and 41  
21 constituted a working arrangement within the meaning of the AWPA, 29 U.S.C. § 1822(c),  
22 between the Defendants and the Plaintiffs listed in Paragraph 37.

23 44. The Defendants transported the Plaintiffs, named in Paragraph 37 along with other  
24 migrant workers, from Arizona to locations in Texas where these Plaintiffs worked in the 2014  
25 pumpkin and squash season.

26 45. Throughout the period of their employment, the Plaintiffs listed in Paragraph 37  
27 were housed in the Western Skies Motel located in Dalhart, Texas. The Defendants provided,  
28 secured, and obtained the housing for the Plaintiffs. The Defendants failed to post in a

1 conspicuous place or to present these Plaintiffs with a written statement in Spanish of the  
2 terms and conditions of occupancy at the Western Skies Motel, as required by the AWPA, 29  
3 U.S.C. § 1821(c) and (g), and its implementing regulations, 29 C.F.R. §§500.75(f) and  
4 500.78.

5 46. Throughout the period the Plaintiffs named in Paragraph 37 were employed by  
6 the Defendants during the 2014 pumpkin and squash season, the Defendants failed to provide  
7 field toilets, hand washing facilities, and potable fresh drinking water as required by the  
8 federal and state law, thereby violating the AWPA, 29 U.S.C. §1822(c), and its implementing  
9 regulations, 29 C.F.R. §500.75(f).

10 47. The Defendants failed to make, keep, and preserve records as required by the  
11 AWPA, 29 U.S.C. §1821(d)(1), and its attendant regulations, 29 C.F.R. §500.80(a), regarding  
12 the work of the Plaintiffs named in Paragraph 37 during the 2014 pumpkin and squash season.  
13 The Defendants failed to make, keep and preserve, records of the compensable hours worked  
14 by each of these Plaintiffs, including, among other things, time spent waiting at the jobsite at  
15 the outset of the workday waiting for the dew on the pumpkins to dry.

16 48. In violation of the AWPA, 29 U.S.C. §1821(d)(2), and its attendant regulations,  
17 29 C.F.R. §500.80 (d), the Defendant failed to provide the Plaintiffs listed in Paragraph 37 at  
18 each payday with a written statement containing the required information, including the  
19 Internal Revenue Service employer identification number.

20 49. Despite the promises the Defendants and their agents made at the time of  
21 recruitment as described in Paragraphs 40 through 41, the Defendants failed, without  
22 justification, to pay the Plaintiffs listed in Paragraph 37 the promised wage rates of \$10.00 or  
23 \$12.00 per hour.

24 50. By their actions described in Paragraph 49, the Defendants violated without  
25 justification their working arrangement with the Plaintiffs listed in Paragraph 37, in violation  
26 of the AWPA, 29 U.S.C. §1822(c), and its implementing regulations 29 C.F.R. §500.72.

27 51. Upon arrival in Texas in or about August 2014, the Plaintiffs listed in Paragraph  
28 were told that the base hourly wage rates that they were promised upon recruitment of \$12.00

1 and \$10.00 respectively would not be paid to them. Instead, they were told a portion of their  
 2 hourly rate would not be paid to them. Instead, they were told a portion of their hourly rate  
 3 would be withheld and paid as a bonus at the end of the season. This pay system was  
 4 implemented throughout the 2014 pumpkin and squash season.

5 52. By Defendants actions described in Paragraph 51, the Defendants knowingly  
 6 provided false and misleading information to the Plaintiffs listed in Paragraphs 37 regarding  
 7 the terms and conditions of employment in violation of 29 U.S.C. 1821(f) and its  
 8 implementing regulations 29 C.F.R. § 500.77.

9 53. During the 2014 pumpkin and squash season the Plaintiffs listed in Paragraph  
 10 37 were required to wait in the field prior to beginning work because they were not able to  
 11 harvest pumpkins immediately upon arrival.

12 54. By their actions as described in Paragraphs 37, the Defendants failed to pay  
 13 these Plaintiffs their wages when due in violation of the AWPA, 29 U.S.C. §1822(a), and its  
 14 attendant regulations, 29 C.F.R. §500.81.

15 55. The violations of the AWPA and its attendant regulations as set forth in this  
 16 count were the natural consequences of the conscious and deliberate actions of the Defendants  
 17 and were intentional within the meaning of the AWPA, 29 U.S.C. §1854(c)(1).

18 56. As a result of the Defendants' violations of the AWPA and its attendant  
 19 regulations as set forth in this count, the Plaintiffs listed in Paragraphs 37 have suffered  
 20 damages.

21 57. The Plaintiffs listed in Paragraph 37 request damages, declaratory relief, and  
 22 injunctive relief with respect to violations of the AWPA and its attendant regulations by  
 23 Defendants for Season 2: pumpkin and squash as described in Count II.

24 **PRAAYER FOR RELIEF**

25 **WHEREFORE**, the Plaintiffs pray that this Court will enter an order:

26 a. Granting judgment in favor of the Plaintiffs and against the Defendants, jointly  
 27 and severally, on their claims for violations of the Migrant and Seasonal Agricultural Worker  
 28 Protection Act as set forth in Count I and awarding each of the Plaintiffs \$500 in statutory

1 damages or actual damages if greater for every violation of the Migrant and Seasonal  
2 Agricultural Worker Protection Act and its attendant regulations set forth in that count;

3 b. Granting judgment in favor the Plaintiffs listed in Paragraph 37 and against the  
4 Defendants, jointly and severally, on these Plaintiffs claims for violations of the Migrant and  
5 Seasonal Agricultural Worker Protection Act as set forth in Count II and awarding each of the  
6 Plaintiffs \$500 in statutory damages or actual damages, if greater, for every violation of the  
7 Migrant and Seasonal Agricultural Worker Protection Act and its attendant regulations set  
8 forth in that count;

9 c. Permanently enjoining the Defendant from further violations of the Migrant and  
10 Seasonal Agricultural Worker Protection Act and its attendant regulations;

11 d. Awarding the Plaintiffs the costs of this action;

12 e. Granting such other relief as this Court deems just and equitable.

13 **RESPECTFULLY SUBMITTED** this 1<sup>st</sup> day of May, 2015.

14 Community Legal Services

16 */S/Pamela M. Bridge*

17 Pamela M. Bridge  
18 Attorney for Plaintiffs